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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

SHAH, MILAP

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/619,183	Applicant(s) TOYODA, HIROBUMI	
	Examiner Milap Shah	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3,4,7 and 8 is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,9-13,15,17 and 19 is/are rejected.
- 7) ☒ Claim(s) 14,16,18 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to the amendment filed on January 17, 2007 and the supplemental amendment filed February 5, 2007. The Examiner acknowledges that claims 3, 4, 9, & 10 were amended, claims 11-20 were added, and no claims were canceled. Therefore, claims 1-20 are currently pending.

Claim Objections

Claims 15 & 16 are objected to because of the following informalities: Claim 15 depends from claim 10 and recites "A server...", which appears to include a typographical error, where claim 15 appears that it should depend from claim 9 rather than claim 10. Consequently, claim 16 also includes the improper preamble if claim 10 was intended to be the base claim. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 5, 6, 9-13, 15, 17, & 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Miyamoto et al. (U.S. Patent No. 6,607,443).

Claims 1 & 12: Miyamoto et al. disclose the same invention including a display part for displaying the state of the game (figure 1[display 7]) and a control part (i.e. CPU or controller of the gaming machine) for controlling the state of the game in accordance with information input by a plurality of players (see at least abstract, column 4, line 66 – column 5, line 4, and “summary of invention”). The plurality of players consist of at least one real player on the player side competing against at least one virtual player on the dealer side, such as when playing the game of blackjack (column 1, lines 15-57). Miyamoto also discloses the storage of “response images” corresponding to the response actions the dealer would make in response to the input from the sensors regarding the actions required by the game and player, such as when the player requires an additional card to be dealt in blackjack (i.e. a “hit”), these instructions are interpreted by the CPU and processed to display the virtual dealer dealing an additional card. An additional example of expression or response imaging by the virtual player is seen in the response to a blackjack being achieved; the response images show excitement (see at least abstract; column 9, line 8 – column 10, line 8; and figures 6A-7). These response images process according to the state of the game, as discussed above, when a player needs an additional card (i.e. the control means selects the response image data based on the game condition data for each player), the response images is considered to be the image of the dealer in a dealing motion.

Claims 2: The “predetermined timing” includes timing at which a change is about to occur, thus, when the player’s hand movements indicate to the CPU that the player wants an additional card, this is a change that is about to occur, thus, response images for the particular action will be displayed (column 9, lines 14-37).

Claims 5 & 6: Miyamoto et al. disclose a first virtual player and a second virtual player have different response images to the same action or “change of the state of the game”, when the sound level of the players is different. The first virtual player and the second virtual player may have the same graphical representation with different emotions or gestures, however, these can be considered “twins” with different emotions or gestures when the same event occurs. For example, Miyamoto et al. disclose that when a blackjack is achieved and the noise level is at a “level 1” the response image may look like figure 6D, however, when the noise level is at a “level 2” the response image may look like figure 6E. Thus, the virtual players used at each of the three sound levels are considered different virtual players (see at least column 7, line 15 – column 8, line 40 & figures 6A-7).

Claims 9, 10, & 11: It is noted that claims 9, 11, 10 includes many of the limitations of claim 1, see the above rejection of claim 1 for details on these specific limitations, which are incorporated herein. In addition to those limitations, Miyamoto et al. disclose an image taking means for taking an image of the real player (figure 1[CCD cameras 14]) and storing the image as “image data” in a storage means, for use in the image recognition circuit 16 (figure 4). Miyamoto et al. also disclose a detection means for detecting player insufficiency in playing the game (i.e. sound levels 1-3 are used to indicate the level of excitement or noise of the players playing the game) and based on the detection, selecting the virtual player to be used in the game (column 7, lines 15-34 discloses determining the sound level; figures 6B-7 & column 7, line 43 – column 8, line 40 discloses how the response data or images are used corresponding to the determined sound level). Additional note about claims 9, 10, & 11: the explanation of claim 1 which is incorporated herein, discloses the game control means causes

a display part to at least show stored response image data of the virtual player in accordance with the state of the game being played (see rejection of claim 1).

Claims 13, 15, 17, & 19: Miyamoto discloses, as discussed above, response images in accordance with the state of the game, such as when a player needs an additional card for the game; at such the game is considered to determine the quality of play of the game when the game determines that the player wants another card (i.e. a HIT command). "Quality" may be considered "an essential or distinctive characteristic, property, or attribute", such that when the HIT command is given by the player, the game determines a distinctive characteristic, which is "the player wants another card" and thus provides images representing the dealing of an additional card to the player, where "play tactic" is considered the dealing action.

Response to Arguments

As an initial matter, the 35 U.S.C. 112 rejection of claim 3, the duplicate claims objection of claims 2 & 4, and the 35 U.S.C 101 rejection of claim 10, have each been withdrawn in response to the amendments.

The Applicant's arguments, with respect to claims 1 & 12, filed January 17, 2007 have been fully considered but they are not persuasive.

The Applicant argues that the invention of claim 1 & 12 requires responding image data representing an image of each virtual player that can be different from the natural image that responds to the player's psychological state", however, the argument does not appear to be commensurate with the scope of the claim. The Examiner respectfully submits that the claimed invention merely requires stored response image data being selectively displayed based on game play, which is disclosed by the applied art. Therefore, the rejection of claim 1 is maintained.

Applicant's arguments, with respect to claim 3, filed January 17, 2007, have been fully considered and are persuasive. The rejection of claim 3 has been withdrawn. Accordingly, the rejection of each of its dependent claims, particularly claims 4, 7, & 8, are also withdrawn. Claims 3, 4, 7, & 8 are indicated as allowable subject matter.

The Applicant's arguments, with respect to claims 9 & 10, filed January 17, 2007 have been fully considered but they are not persuasive.

The Applicant argues that the Examiner completely ignored various limitations of the claims, which does not appear to be the case. The Examiner rejected claims 3, 9, & 10 together in the same explanation, where the label of "Claim 3" should have been "Claims 3, 9, & 10", however, the rejection itself does in fact reference the limitations that were considered ignored. The Applicant also argues that Miyamoto's figures 6 & 7 depict a single dealer and Miyamoto lacks any disclosure of multiple virtual players. The Examiner respectfully submits that, at least with respect to claims 9 & 10, "at least one virtual player" is required, which Miyamoto satisfies. Additionally, claims 9 & 10 have been amended to what is considered a different scope, where the "and/or" has been changed to "and" and the claim requires "at least one of" the two recited limitations to occur, thus, due to the change in scope, the action is proper in finally rejecting the claims. In summary, the rejections of claims 9 & 10 have been updated and are rejected in conjunction with claim 1 under 35 U.S.C. 102.

The Applicant's arguments, with respect to claims 5 & 6, filed January 17, 2007 have been fully considered but they are not persuasive.

The Applicant argues that Miyamoto cannot implement the disclosed features since Miyamoto lacks any disclosure of multiple virtual players, where it appears the Applicant's definition of multiple virtual players is where the first virtual player is graphically different then the second virtual player, however, the claimed invention merely requires the first virtual player has a first

expression and the second virtual player has a second expression, where it appears the claimed invention only requires the expressions to differ, not the graphical representation of the virtual players. Therefore, Miyamoto may be interpreted to include multiple virtual players where each virtual player is graphically the same, but with different expressions, as discussed in the rejection. Therefore, the Examiner maintains that Miyamoto discloses the claimed invention and the rejections are thus maintained. Additionally, the claims include a “change of the state of game”, where the first virtual player and second virtual player (i.e. same graphical representation with different gestures or expressions) may be utilized dependent on the state of the game changing.

For at least these reasons, claims 1, 2, 5, 6, 9-13, 15, 17, & 19 maintained rejected or are newly rejected.

Allowable Subject Matter

Claims 3, 4, 7, & 8 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: A thorough search of prior art fails to provide a reference or references, which taken alone or in combination, teach or disclose “wherein said game control means causes said display part to show an image of the real player taken at a predetermined timing by said image taking means **and** the response image data being stored by said response image data storage means according to the state of the game being played with the gaming machine”. The closest prior art of Miyamoto discloses at least the later part recitation, but fails to teach or disclose the conjunction and requirement of both limitations, and it appears no modification is possible, since the Applicant’s stated discussion that displaying a captured image is not merely design choice (see Non-Final Office Action dated 10/17/06 & Applicant’s Arguments dated 01/17/07) to at least show images of real players such

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that other real players base their game tactics off said images. Thus, claim 3 and its dependents are allowable.

Claims 14, 16, 18, & 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milap Shah whose telephone number is (571) 272-1723. The examiner can normally be reached on M-F: 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M.B.S.

/Scott Jones/
Primary Examiner, Art Unit 3714